



**Congressman Joe Pitts**  
Sixteenth Congressional District of Pennsylvania

# Memorandum on Health Care

## MEMORANDUM

TO: Citizens of the 16th Congressional District of Pennsylvania  
FROM: Congressman Joe Pitts  
DATE: November 9, 2009  
RE: My Vote Against H.R. 3962, The Affordable Healthcare for America Act

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No American should have to go without medical care. A prosperous and caring nation should care for all its people, and health insurance should not simply be a perk for the wealthy or the gainfully employed. Few Americans disagree with this, but there are two visions of how to get there, and the time has come for us to decide which way to go. Saturday night, I voted against H.R. 3962. It is important that you understand why I voted against this legislation. It is equally important that you understand what I believe we should be doing instead.

## The Problem.

Americans get their health insurance today in one of two ways: through private health insurance or from the government. Both of these systems have problems that need to be fixed. The problems with the private system are not simple, but they pale in comparison to the crisis looming before the government system, which faces near-term insolvency and systemic failure.

As different as the problems facing the two systems are, they do have one common theme: lack of competition. In the private system, there isn't enough competition because the government won't allow it. In the government system, there is no competition at all. Anyone who has bought a hot dog at a major league ballpark knows what happens to price and quality when there is little or no competition. More than anything else, real competition is the key to making health care affordable in America.

**Private Insurance.** Americans have three primary complaints with private insurance: it is too expensive, it is sometimes denied to people (especially to those with pre-existing conditions), and having it at all usually depends on your employer. This results in both high costs and millions of Americans having no coverage at all. Unlike government insurance, the cost of private insurance

responds to trends in the marketplace. Aggressive and frivolous litigation has driven up the price of private care, as has persistent underpayment by government insurance plans.

**Government Insurance.** Nearly half of all Americans are insured by the government, through Medicare, Medicaid,<sup>1</sup> SCHIP, TRICARE, the Department of Veterans Affairs, and the Indian Health System. People who are insured by the government are much less aware of the problems facing the government system. These programs are expensive entitlements, and their problems relate to their financing, which patients don't see in the course of care. Nevertheless, the problems facing the government system are dire. Medicare's trustees have repeatedly warned that the system is spiraling into insolvency, bankruptcy, and (if nothing is done) collapse.

## Two Visions for Solving the Problem.

Some politicians, including President Obama, describe the current debate as one between those who want reform and those who want to stop reform. This is partisan rhetoric and is simply not true. Democrats and Republicans have been arguing for decades over how to reform the system and both parties have advanced plans over the years that have met with strong opposition from the opposing side. It is disappointing to many Americans, especially those in need of help, that Washington doesn't seem able to come together to solve the issue. The disagreement is a principled one, though, and it is hard to reconcile because the two sides have essentially opposite visions.

The end-goal of leading liberals is a single-payer system in which the government is the only insurer in America. The President and other leaders of the Democratic Party are on record supporting this. This is not, however, what H.R. 3962 creates. H.R. 3962 would, for the time being, simply expand the number of Americans who are covered by government health insurance and dramatically increase regulation of private insurance companies. It would also force employers to offer health insurance and force every American to buy health insurance. Employers and individuals would both pay stiff penalties, ultimately including jail time, for non-compliance.<sup>2</sup> Unfortunately, H.R. 3962 does nothing substantive to save and strengthen Medicare and the current government insurance system from its serious financial problems.

The end-goal of most Republicans and many Democrats is a system in which private insurers engage in robust competition, creating the same market-based inducements to reduce prices and improve service that apply to most of the American economy. Individuals, not employers, would have control over which policy to buy—but with the same level of support they get now from their employers or with increased help from the government, through tax credits or tax incentives. Today, individual insurance plans are tied to regions never any larger than a state and sometimes much smaller. Because present law prevents insurance companies from competing across state lines, there is very limited competition in the business. Republicans strongly support changing this limitation. We support legislation to reform medical malpractice litigation, which is estimated to cost up to \$124 billion a year as doctors and hospitals practice “defensive medicine” to protect themselves.<sup>3</sup> The Congressional Budget Office

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<sup>1</sup> Medicaid is known as “Medical Assistance” in Pennsylvania.

<sup>2</sup> <http://republicans.waysandmeans.house.gov/components/redirect/r.aspx?ID=3>

<sup>3</sup> McQuillan, L.J., et. al. Jackpot Justice: The True Cost of America's Tort System. Pacific Research Institute, 2007.

estimates litigation reform would save the government \$54 billion over ten years.<sup>4</sup> Health insurance premiums are 17 percent lower in states that have enacted their own litigation reform.<sup>5</sup> Republicans also support sensible government regulation. Republicans would also permit purchasing across state lines, portability, and pooling--all of which would bring down costs to consumers. We also want to save Medicare and the rest of the public system by reducing the cost of healthcare itself through lawsuit reform, real competition, and other measures.

## Concerns with the Democratic Plan.

As unfortunate as the partisanship and acrimony we are witnessing is, I also believe the opposition the legislation is facing is largely warranted. The leading proponents of the plan are far to the left of the political spectrum, representing places like Boston, New York City, San Francisco, and Hollywood. While I believe President Obama should be treated with respect, it is true that he also belongs to the left wing of the Democratic Party (his 2007 Senate voting record was the most liberal in the Senate).<sup>6</sup> Knowing a plan of this kind would not be viable under normal circumstances, Democratic leaders attempted to rush health reform and other priorities through Congress while they had a veto-proof majority in the Senate, a 257 to 178 majority in the House, and the

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## ***The Republican Record on Health Reform***

(Republicans held the majority from 1995 to 2006)

### **Medical Malpractice Reform - FILIBUSTERED**

The House of Representatives passed medical malpractice reform *four* times. Each time it was filibustered in the Senate.

### **Medicare Advantage - LAW**

Recognizing that competition is the only way to rein in entitlement spending, Republicans created Medicare Advantage plans in 2003 to allow private insurers to compete with each other as government contractors.

### **Prescription Drug Coverage - LAW**

In 2003, Congress created a prescription drug benefit for Medicare beneficiaries.

### **Association Health Plans - FILIBUSTERED**

The House passed legislation *seven* times allowing businesses to arrange their health benefits through associations, which would have significantly reduced cost. Each time, the legislation was blocked in the Senate.

### **Health Saving Accounts - LAW**

In 2003, Congress created HSAs to allow individuals to save money in an account they control, using the money to pay for everyday medical expenses while an insurance company covers major expenses after a high deductible paid out of the HSA.

### **Community Health Centers Funding - INCREASED**

From 2000 to 2006, Republicans substantially increased funding for Community Health Centers, the safety net of providers for Americans who don't have access to primary health care. This more than doubled the number of CHCs available to America's poor.

### **Tackling Entitlement Spending - LAW**

In 1997, Congress passed the Deficit Reduction Act, which (among other things) created a "sustainable growth rate" for Medicare spending. Unfortunately, this good-faith effort to control spending didn't work.

### **National Institutes of Health Funding - INCREASED**

Between 1998 and 2003, Republicans almost doubled funding for the national Institutes of Health from \$13.6 billion to \$27.1 billion in an effort to step up the search for cures for deadly diseases ranging from cancer to HIV/AIDS.

### **The Health Coverage Tax Credit - LAW**

In 2002, Congress created a health coverage tax credit to subsidize coverage for early retirees and workers displaced by international trade. The HCTC pays 65 percent of premiums.

### **Tax Deduction for the Self-Employed - LAW**

In 2003, Congress began allowing self-employed individuals to deduct 100 percent of the cost of their health insurance.

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<sup>4</sup> [http://www.cbo.gov/ftpdocs/106xx/doc10641/10-09-Tort\\_Reform.pdf](http://www.cbo.gov/ftpdocs/106xx/doc10641/10-09-Tort_Reform.pdf)

<sup>5</sup> Thorpe, Kenneth E. The Medical Malpractice "Crisis": Trends and the Impact of State Reforms. January 21, 2004, pp. 20-30.

<sup>6</sup> 2007 Vote Ratings. National Journal, March 8, 2008.

president was still in his post-inaugural “honeymoon.”<sup>7</sup> The plan does not represent the wishes of the political center of the country.

Partisanship aside, I have two primary concerns with H.R. 3962. First, it does nothing to address the most pressing problem facing the American healthcare system: the looming insolvency of Medicare. I actually believe it will make that problem worse, by taking about \$500 billion out of Medicare. Second, I believe that it is, in fact, consciously designed to lead us toward a single-payer government healthcare monopoly. I am aware that this sounds like partisan rhetoric to some, but there are very good reasons to believe it is true.

**The Medicare Crisis.** Medicare is in serious trouble. The 2009 Medicare Trustees Report contains this dire warning: “The HI trust fund does not meet our short-range test of financial adequacy, and fund assets are projected to be exhausted in 2017. ... These projections demonstrate the need for timely and effective action to address Medicare’s financial challenges.”<sup>8</sup>

Former Treasury Department economist Bruce Bartlett, a conservative critic of both parties, puts Medicare’s problems this way: “Just part A of that program, which pays for hospital care, has an unfunded liability of \$36.4 trillion in perpetuity.” If you add part B (doctor visits), part D (prescriptions), and Social Security (which faces similar challenges) “taxes would have to rise by roughly 81% to pay all the benefits promised by these programs under current law over and above the payroll tax. ... Put another way, the total unfunded indebtedness of Social Security and Medicare comes to \$106.4 trillion.”<sup>9</sup> To comprehend this number, consider that the nation’s total private wealth is \$51.5 trillion.<sup>10</sup>

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### ***Underpaying, But Spending Too Much.***

As with Medicaid, the strongest evidence that Medicare needs to be reformed is the fact that it pays doctors too little while also spending so much it is on the brink of insolvency. Douglas Elmendorf, the director of the Congressional Budget Office told the Senate Finance Committee this year: “On average, payment rates under Medicare and Medicaid are lower than private payment rates. Specifically, Medicare’s payment rates for physicians in 2006 were nearly 20 percent lower than private rates, on average, and its average payment rates for hospitals were as much as 30 percent lower.”<sup>8</sup> Medicaid pays even less.

This has produced a phenomenon known as “cost-shifting” in which doctors and hospitals often charge private insurance above the cost of care to recoup the losses incurred by treating Medicare and Medicaid patients below the cost of care. This is a significant reason for the high cost of private health insurance. It could also be accurately described as a hidden tax on private insurance.

It has also produced a bonanza in Congressional lobbying. I serve on the House Energy and Commerce Committee, which has jurisdiction over Medicare. Every medical procedure approved by Medicare has a prescribed reimbursement rate set by the Centers for Medicare and Medicaid Services. Every medical specialty, and there are many, has a team of lobbyists in Washington whose job it is to push every year for a larger slice of the reimbursement pie. This lobbying frenzy is what happens, of course, when government price fixing replaces the free market.

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<sup>7</sup> There are now 258 Democrats and 177 Republicans in the House, following two special elections.

<sup>8</sup> 2009 Medicare Trustees Report. Centers for Medicare and Medicaid Services. U.S. Department of Health and Human Services. <http://www.cms.hhs.gov/ReportsTrustFunds/>

<sup>9</sup> Bartlett, Bruce. “The 81% Tax increase.” Forbes, May 15, 2009. <http://www.forbes.com/2009/05/14/taxes-social-security-opinions-columnists-medicare.html>

<sup>10</sup> Federal Reserve Bank. <http://www.federalreserve.gov/releases/z1/Current/z1r-5.pdf>

Millions of seniors rely on Medicare for their health insurance. Every American counts on it for their current or future medical care. Medicare insolvency is no longer a theoretical future event. According to its trustees, insolvency is just eight years away. When the President spoke to Congress, he said, “Our health care system is placing an unsustainable burden on taxpayers. ...Put simply, our health care problem is our deficit problem. Nothing else even comes close.” I completely agree. However, the plan moving through Congress will only make the problem worse.

Medicare Advantage was created by Republicans in 2003 to introduce market forces into Medicare by allowing private insurance companies to compete for Medicare enrollees and provide insurance as government contractors. While imperfect, Medicare Advantage has worked well for patients and held promise as the beginning of genuine reform of the system.

H.R. 3962 cuts funding for Medicare Advantage, effectively abandoning the only attempt to truly reform Medicare that has been enacted to date.

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*“If there's one thing that can bankrupt our nation, it's health care costs. Health care reform must do more than add a wing on a house that is structurally flawed, mortgaged for more than it's worth and built on a sinkhole of sand.”*

--David M. Walker,  
Former Comptroller General.

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**Medicaid.** One of the primary ways the present plan intends to cover the uninsured is by expanding Medicaid. Medicaid is a state-administered welfare program that pays for medical treatment for the poor. The Senate legislation would replace the current state-determined eligibility standards and make everyone making less than 133 percent of poverty eligible for the program. That would increase the Medicaid rolls by 25 percent. The House bill would expand eligibility to 150 percent of poverty. The bill also phases out SCHIP, a program created by Republicans for the children of working-poor families, and moves people to Medicaid or subsidized private insurance. This is a bad idea because Medicaid is perhaps the worst-run health insurance program in America. The legislation also hides some of the expense of expanding Medicaid by sticking the states with a portion of the cost.

Congressional Quarterly reports that “Medicaid is a program already plagued by operational problems and fraud, and its costs are projected to grow faster than those of Medicare. ...Chief among those problems is that many doctors refuse to treat Medicaid patients because the system’s payment schedules average 28 percent less than Medicare nationwide.”<sup>11</sup> Medicare itself reimburses doctors at rates below the cost of providing service. “The consequence is that people covered by Medicaid have chronic difficulty finding care” because doctors simply can’t afford to serve them.

As with Medicare’s problems, the legislation in Congress does nothing to address these serious problems with Medicaid and would only make them worse. As CQ reports “the pending health care overhaul bills wouldn’t change Medicaid’s structure or its operations to any great extent, which means that any expansion of the program would likely widen its troubles as well.”

**The Public “Option.”** Perhaps the most controversial provision in the House legislation is the so-called “public option.” Proponents have argued that it will keep private insurance accountable by competing with them. I strongly oppose the public option. First, I believe putting government in a competitive relationship with the private sector is generally unwise. Second, there is strong evidence that leading

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11 Wayne, Alex. “Piling Trouble On a Torn Net.” CQ Weekly. September 21, 2009.

Democrats see the public option as a means to the sort of single-payer government monopoly socialist governments have established in many European countries.

Before Congress, President Obama declared, “My guiding principle is, and always has been, that consumers do better when there is choice and competition.”<sup>12</sup> While I, too, believe increasing competition is essential to reforming healthcare, I do not believe putting the government in the commercial insurance business is the solution. The President said, “The insurance companies and their allies don't like this idea. They argue that these private companies can't fairly compete with the government. And they'd be right if taxpayers were subsidizing this public insurance option. But they won't be. I've insisted that like any private insurance company, the public insurance option would have to be self-sufficient and rely on the premiums it collects.”

Anyone familiar with the history of government programs certainly can't believe that the “public option” will be self-sufficient. Furthermore, the playing field will not be a level one. The public option will be immune from the lawsuits plaguing private insurance, will not have to abide by expensive state regulatory requirements and mandates, doesn't have to front the capital necessary for start-up, will be immune to market forces, won't have to pay state or local taxes, and will surely be bailed out by Congress whenever it runs out of money. Furthermore, it will be administered by the same agency that regulates its competition—which is like allowing the Postal Service to regulate FedEx.

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***Paving the way for a “single-payer” government monopoly.***

*“I think that if we get a good public option it could lead to single payer and that is the best way to reach single payer.”*

--Financial Services Committee Chairman Barney Frank

*“If I were designing a system from scratch I would probably set up a single-payer system... Over time it may be that we end up transitioning to such a system...I don't want to wait for that perfect system.”*

--President Barack Obama

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The President's assertion that competition has always been his “guiding principle” is also curious, considering his earlier repeated statements that a single-payer system with no competition at all was his true preference. “Here's the bottom line,” he said in an Iowa speech. “If I were designing a system from scratch I would probably set up a single-payer system... Over time it may be that we end up transitioning to such a system...I don't want to wait for that perfect system.”<sup>13</sup>

Barney Frank, Chairman of the House Financial Services Committee, was asked by Single Payer Action—a liberal activist group—on July 27, “Why shouldn't we start with single payer now?” He responded, “Because we don't have the votes for it. I wish we did. I think that if we get a good public option it could lead to single payer and that is the best way to reach single payer. Saying you'll do nothing till you get single payer is a sure way never to get it. ... I think the best way we're going to get single payer, the

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<sup>12</sup> President Barack Obama. Joint Session of Congress, September 9, 2009.

<sup>13</sup> “Fact Check: Obama Consistent in His Position on Single Payer Health Care.” January 5, 2008. [http://www.barackobama.com/factcheck/2008/01/05/fact\\_check\\_obama\\_consistent\\_in.php](http://www.barackobama.com/factcheck/2008/01/05/fact_check_obama_consistent_in.php)



only way, is to have a public option and demonstrate the strength of its power.”<sup>14</sup>

John Conyers, Chairman of the House Judiciary Committee has introduced H.R. 676 to create a single-payer healthcare system. Eighty-six Democrats have joined him as cosponsors.<sup>15</sup>

Given these statements and actions, I believe it is reasonable to believe that leading proponents of the “public option” see it as a means to ultimately ending private health insurance in America. Sadly, it also shows how disingenuous their rhetoric is when they say the public option will merely compete on a level playing field with private insurance and thereby “keep pressure on private insurers to keep their policies affordable and treat their customers better.”<sup>16</sup>

Whether merely because employers “dump” workers on the public option or because, as leading Democrats evidently hope, the public option eventually leads to all Americans being insured by the government, we have to ask whether people are ultimately better off being insured privately or by the government. Providing care costs money, regardless of how it is paid for. Ultimately, the American people will pay for healthcare one way or the other, either through premiums or in higher taxes.

We have to ask, then, “Which model of payment--public or private--is more able to sustain itself going forward? Which system is more cost-efficient?” Today, private insurance is able to cover its costs and also make a profit. The government, though it is

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## ***Surprises in the House Bill***

When H.R. 3962 emerged from partisan closed-door negotiations on October 29, several surprises were discovered.

**Ban on Individual Policies – Page 94** – Prohibits the sale of private individual health insurance policies beginning in 2013, forcing individuals to purchase coverage through the federal government.

**Taxpayer Funding of Abortion – Page 110** – Required the use of federal dollars to fund abortions through the government-run health plan and, if an annual appropriations rider were deleted in the future, require the plan to fund elective abortions. This was fixed on the floor by amendment, but that amendment may be removed in House-Senate negotiations.

**Credentials for Food Service – Page 872** – Requires the director of food services at nursing facilities participating in Medicare and Medicaid to hold “military, academic, or other qualifications” as determined by federal bureaucrats.

**Parenting Skills – Page 1183** – Provides \$750 million in federal funding for a new entitlement program to offer “knowledge of realistic expectations of age-appropriate child behaviors” and “skills [for parents] to interact with their child.”

**Protecting Trial Lawyers – Page 1432** – Provides incentive payments to states that enact new medical liability laws--but only if such laws do “not limit attorneys’ fees or impose caps on damages.” This is the supposed liability reform compromise the President offered in his speech to Congress.

**Vending Machines – Page 1515** – Imposes labeling requirements on all vending machines nationwide, in addition to new mandates by the federal government on all restaurants with more than 20 locations.

**Coverage for Illegal Immigrants – Added** – Despite strong bipartisan opposition to provisions giving government-funded health benefits to millions of people who are in the country illegally, CBO estimates H.R. 3962 actually increased the number of illegal immigrants covered by the bill by 2.5 million.

**Ban on Rationed Care – Deleted** – A bipartisan amendment added in committee barring a new Center for Comparative Effectiveness Research (CCER) from being used to ration care was deleted.

**Ban on Doctor Micromanagement – Deleted** – Another bipartisan committee amendment barring the CCER from dictating to doctors what types of treatments they can offer was deleted.

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<sup>14</sup> Single Payer Action video. <http://www.singlepayeraction.org/blog/?cat=6&paged=2>

<sup>15</sup> [www.thomas.gov](http://www.thomas.gov)

<sup>16</sup> President Barack Obama. Joint Session of Congress, September 9, 2009.

presently meeting its obligations to seniors and others it insures, is only able to do so by ignoring the looming train wreck I detailed earlier in the memorandum. As David M. Walker, President Clinton's Comptroller of the Currency and a leading advocate for fiscal responsibility, put it: "If there's one thing that can bankrupt our nation, it's health care costs. Health care reform must do more than add a wing on a house that is structurally flawed, mortgaged for more than it's worth and built on a sinkhole of sand."<sup>17</sup> I can think of no more powerful argument for improving private insurance rather than expanding government insurance.

**The Effect on Private Insurance.** The insurance industry in America frankly deserves much of the criticism it is getting. Though it happens less frequently than the President or many national media would lead you to believe, the cancellation of policies based on the discovery of pre-existing conditions is morally repugnant. The industry should long ago have found a business model that enabled it to insure all who ask. It is fair to say that they helped bring the current situation on themselves.

Yet, that does not change the fact that private insurance in America still works well for those who have it. A Washington Post-ABC poll showed that 83 percent of American are "somewhat" or "very" satisfied with the care they receive and nearly the same number, 81 percent, feel the same way about their insurance.<sup>18</sup> An earlier poll found that 90 percent of seriously ill people were somewhat or very satisfied with the care their received through private insurance.<sup>19</sup>

If Americans are, in fact, this pleased with their private insurance, then we need to be careful not to throw the baby out with the bathwater as we seek to improve the system and make it more affordable. H.R. 3962 would hurt private insurance in several ways. It would heavily regulate private insurance, increasing costs that would then be passed on to the consumer. It would force private insurance to compete with (and be regulated by) a government-run plan that would have several built-in competitive advantages. Private insurance would be heavily taxed, to pay the \$1.3 trillion price tag this legislation carries.<sup>20</sup> The legislation would exacerbate the current system in which private insurance is forced to pay hospitals and doctors above the cost of service to compensate for the government paying below the cost of service. All of this would force private insurance to increase rates, putting it at an even greater disadvantage against the public option and further harming consumers. The Washington Post-ABC News poll found that 84 percent of Americans are worried that this legislation will increase their healthcare costs. They are right to worry.

**The Effect on Employers and Employees.** If H.R. 3962 becomes law, premiums will increase, quality of service will decrease, taxes will go up, and unemployment will either worsen or take much longer to

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<sup>17</sup> "Rein In Insane Health Costs." New York Daily News, July 13, 2009. [http://www.nydailynews.com/opinions/2009/07/13/2009-07-13\\_rein\\_in\\_insane\\_health\\_costs.html](http://www.nydailynews.com/opinions/2009/07/13/2009-07-13_rein_in_insane_health_costs.html)

<sup>18</sup> "Debate Focuses on a Satisfied Majority." The Washington Post, July 28, 2009. <http://www.washingtonpost.com/wp-dyn/content/article/2009/07/27/AR2009072701372.html>

<sup>19</sup> ABC News/USA Today/Kaiser Family Foundation poll, September 7-12, 2006. <http://www.usatoday.com/news/health/2006-10-15-health-poll1.htm>

<sup>20</sup> The original House version of the bill, H.R. 3200, was projected by CBO to cost \$1.6 trillion in the first 10 years. In an attempt to mask the cost of the version that was voted on by the House, the legislation was reintroduced as two separate bills: H.R. 3961 and H.R. 3962. \$1.3 trillion is the CBO-estimated cost of H.R. 3962 plus the cost of H.R. 3961. H.R. 3961 increases Medicare payments to doctors. CBO estimates H.R. 3962 alone will cost \$1.055 trillion. The Heritage Foundation estimates the two bills will cost \$1.5 trillion in the first 10 years. Even these estimates mask the true cost, as the first 10 years of funding will pay for only seven years of benefits.



improve. One estimate indicates that as many as 114 million individuals could lose access to their current coverage under a government-run plan.<sup>21</sup>

The legislation puts struggling businesses in a lose-lose situation of having to buy insurance they can't afford for their employees or paying an 8 percent-of-payroll penalty they can't afford either. Many businesses will cancel their employee insurance coverage as they will actually save money simply by paying the penalty for doing so. Those employees will then migrate to the public option, initiating a self-perpetuating cycle in which private insurance is less and less able to compete with the government as its market share shrinks.

An analysis by the Joint Committee on Taxation determined that the surtax imposed by H.R. 3962 would raise taxes on small businesses by at least \$150 billion. A total of \$729.5 billion in new taxes will be levied on small businesses, individuals who cannot afford health coverage, and employers who cannot afford to provide the coverage that meets new federal standards. According to methodology developed by Dr. Christina Romer, chair of the President's Council of Economic Advisors, and Jared Bernstein, the Vice President's chief economist, these tax increases and mandates will result in as many as 5.5 million more jobs being lost.<sup>22</sup>

**The Effect on State Budgets.** Pennsylvania had a very hard time writing its budget this year, as costs once again outstripped revenue. By expanding Medicaid eligibility to 150 percent of poverty, the House bill will significantly increase the strain on state budgets. Looking to Medicaid is a way of masking the true cost of the legislation, because states share the costs of Medicaid. The Senate proposal to expand Medicare eligibility to 133 percent of poverty would have increased Pennsylvania's Medicaid rolls by 20.4 percent.<sup>23</sup> According to the National Conference of State Legislatures, that would cost the Commonwealth \$2.2 billion over the next 10 years, and \$930 million each year after that.<sup>24</sup> Expanding coverage to 150 percent would be even harder for the General Assembly to pay for. Pennsylvania and other states will likely have to raise taxes to compensate.

**Rationing of Care.** President Obama told the New York Times in April, "The chronically ill and those toward the end of their lives are accounting for potentially 80 percent of the total health care bill out there.... There is going to have to be a very difficult democratic conversation that takes place."<sup>25</sup> What he was suggesting is that the easiest way to cut costs is by denying care to those who are terminally ill or very old. I do not believe this is an ethical way to reduce costs. H.R. 3962 does not mandate rationing of care. However, it does not prohibit federal bureaucrats from denying patients access to costly but effective treatments and services. The bill directs the Institute of Medicine to promote "high-value health care" and to make recommendations to Medicare and the Secretary of Health and Human Services. I am

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<sup>21</sup> [http://energycommerce.house.gov/press\\_111/20090625/testimony\\_sheils.pdf](http://energycommerce.house.gov/press_111/20090625/testimony_sheils.pdf)

<sup>22</sup> <http://gopleader.gov/news/documentsingle.aspx?documentID=153029>

<sup>23</sup> [www.heritage.org/press/factsheet/fs0042.cfm](http://www.heritage.org/press/factsheet/fs0042.cfm)

<sup>24</sup> [www.ncsl.org](http://www.ncsl.org)

<sup>25</sup> [www.nytimes.com/2009/05/01/us/politics/30web-baker.htm?\\_r=1&hp](http://www.nytimes.com/2009/05/01/us/politics/30web-baker.htm?_r=1&hp)

concerned that this may constitute the first step on the path to rationing of care. A ban on healthcare rationing added to the bill in committee was deleted in Speaker Pelosi's reintroduced version.

## The Right Way to Reform Healthcare.

This is something we need to remember when we hear politicians talking about providing "affordable healthcare." If we make healthcare more affordable to individuals by making it even more unaffordable for the nation, we are just adding to a house of cards that will even more quickly collapse. This will benefit no one, and hurt everyone. Modern healthcare is inherently expensive, relying on ever more complex technology and investment-heavy research and development. There is no magic formula for making it cheap. If we are truly interested in making health insurance not only available to everyone but also sustainable into the future, we are going to have to do it the old-fashioned way.

Health insurance rates suffer from the same problem college tuition rates suffer from: the government's efforts to help have backfired. By trying to make sure we can afford them, the government has made both less affordable. By "guaranteeing" we can afford them, the government has removed the natural price ceiling from the marketplace. This is exacerbated by the fact that neither education nor healthcare are thought of as "optional" purchases by most Americans. If healthcare is to be affordable for families and for our nation as a whole, it is imperative that old-fashioned free-market forces be reintroduced into the marketplace. Consumers must have the power to compare insurance products and shop for the best deal. Consumers must also have control over their own policies, rather than relying purely on the "wisdom" their employers' human resource departments. The current imbalance of universal demand against limited supply must be changed. Insurance companies must be placed into a truly competitive marketplace, nationwide, in which dozens or even hundreds of competitors are vying daily for customers. Today, because of government rules, some markets are served by only one or two private insurers.

**Carrots Instead of Sticks.** While there are probably some businesses in America that intentionally avoid providing health insurance for their employees, the real problem is that too many just can't afford to. Many new, small, and struggling businesses simply don't have the profit margin that makes it possible. We should stop criticizing those who can't offer the benefit and start helping them instead. I have teamed up with a Democrat to do just that. Congresswoman Nydia Velazquez of New York and I have co-authored the Small Business CHOICE Act, which will allow small business to form private health insurance cooperatives to buy insurance at lower rates while transferring catastrophic costs to a larger insurer. The bill helps small businesses offer health insurance through a refundable tax credit of 65 percent. Self-employed people would save \$5,000 a year on health insurance,

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### How Much is a Trillion?

Estimates of the combined cost of H.R. 3691 and H.R. 3962 range from \$1.3 trillion to \$1.5 trillion. To comprehend how much \$1 trillion is, consider the following examples.

- It takes 12 days for a million seconds to pass. It takes almost 32,000 years for a trillion seconds to pass.
- 1 trillion is about ten times the number of stars in the Milky Way Galaxy.
- If you started spending \$1 million a day, every day, on the day Jesus was born, you would still not have spent \$1 trillion.
- A trillion \$1 bills, end-to-end, could wrap around the Earth more than 380 times.

Keep in mind that when advocates claim the legislation is "deficit neutral" that is not a promise to limit spending, it is a promise to raise taxes or take money from other programs such as Medicare.

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and other small firms would save more than 34 percent. While only part of the solution, I believe this bill would bring us much closer to universal healthcare without government control.

**Wise Regulation.** Clearly, we need regulatory reform as well. Insurance companies should not be allowed to drop people's policies for arbitrary and capricious reasons. Those who have pre-existing conditions should not be barred from obtaining coverage. Doctors should not be overruled by insurance companies when determining the care patients need. At the same time, we need to recognize that the more we regulate doctors, hospitals, and insurance companies the more we increase their costs. Those costs are always passed on to the consumer.

**Litigation Reform.** While we need new rules for insurance companies, we also need new rules for lawyers. Unscrupulous attorneys have discovered how to become multi-millionaires by trolling the country for "victims" who may not even be sick. Settlements or jury awards in class-action suits often result in millions for lawyers and only a few dollars or even just store coupons for those they represent. This problem extends beyond health insurance, but has hit physicians and hospitals particularly hard. Malpractice insurance policies for individual doctors now cost in excess of \$200,000 per year for obstetricians and many other specialists. Patients ultimately foot the bill for this.

**Consumer Control.** In no other sector of our economy do consumers have less active involvement in major purchases. Today, consumers have almost no ability

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## Some of the Legislation I Support

**H.R. 859 – The Small Business CHOICE Act** – I introduced this bill with a Democratic colleague, Nydia Velazquez of New York (Chairwoman of the Small Business Committee), to help small businesses provide health insurance for their employees. Many small and new businesses have trouble providing this important benefit, and our bill will allow them to band together to buy insurance at a much more affordable rate. Our bill could help thousands of companies take better care of their workers.

**H.R. 3400 – The Empowering Patients First Act** – This important bill would ensure access to affordable, quality health care for all Americans. It provides effective and affordable solutions by tackling issues like tort reform, covering pre-existing conditions, and protecting employer-sponsored insurance. It would also give greater choice and portability to patients.

**H.R. 3218 – The Improving Health Care for All Americans Act** – This thoughtful bill is based on five principles: 1) If you like it you can keep it; 2) All Americans should get both choice and coverage; 3) Providing a pooling mechanism and group plan choices for everyone; 4) Coverage for pre-existing conditions at affordable rates; and 5) Controlling costs by empowering consumers, not by empowering the government.

**H.R. 3700 – The Health Care Bill of Rights** – This bill establishes ten principles for healthcare reform, including: no government-run plan, no cuts to Medicare, no new deficit spending, no new taxes, no rationing of care, no mandates on individuals or employers, no taxpayer-funded coverage for illegal immigrants, and the achievement of pre-existing condition coverage, litigation reform, and reduced health care costs.

**H.R. 1039 – The Promoting Health Information Technology Act** – This legislation would encourage the adoption of interoperable health information technology to improve health care quality, reduce medical errors, and increase the efficiency of care.

**H.R. 2607 – The Small Business Health Fairness Act** – This bill establishes association health plans, allowing employers to join together to negotiate lower insurance rates for their workers.

**H.R. 3610 – The Health Savings and Affordability Act** – This legislation would improve access to health care by allowing a tax deduction for health insurance costs for individuals and by expanding health savings accounts.

**H.R. 1086 – The HEALTH Act** – This bill reforms medical malpractice law by creating a statute of limitations on claims, placing caps on punitive and non-economic damages but no cap on true economic damages, by limiting attorney's fees to reasonable levels, and by limiting a defendant's proportional liability to the actual level of responsibility.

**H.R. 198 – The Health Care Tax Deduction Act** – This legislation would create a tax deduction for insurance premiums and for unreimbursed prescription drug expenses.

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to reward insurance companies for providing good service for less money, nor do they have the ability to punish insurance companies by “taking their business elsewhere.” Employers make most of the contracting decisions, placing individuals in a “take it or leave it” situation. Putting consumers in control of purchasing decisions will allow the market to work the way it should, driving down prices.

**Portability.** Another affect of this is that insurance is too-closely tied to employment. People who are laid-off, fired, or have to quit working can find themselves uninsured at a time when they can least afford it. Americans should be able to take their insurance with them from one job to another and from one state to another.

**Nationwide Competition.** Under the present system, insurance plans operate only within states or even just areas within states, not nationally, frequently facing little or no competition. In some areas, one insurance plan holds 90 percent of the market. This distorts the marketplace, removing the incentives to be efficient and customer-oriented that robust competition creates. It is essential that we change this.

**Health Savings Accounts.** Lack of consumer control also has the affect of reducing people’s motivation to make their own responsible decisions. There is little incentive to make wise decisions about when to see a doctor or to make healthy lifestyle choices. Instead, insurance companies try to reduce costs by requiring doctor referrals and insurance pre-certification. A better way to help people to make responsible decisions is to transfer the motivation to be frugal from the insurance company to the individual. Health Savings Accounts, created in 2003 by Republicans but still under-used, allow individuals to save money in an account they control, using the money to pay for everyday medical expenses. Only when there major medical expenses are incurred does the insurance company step in, after a high deductible (paid out of the HSA) is met. HSAs encourage individuals to make smart spending decisions and cost them less over time than traditional insurance.

**Insuring Young People.** A large proportion of the uninsured in America are healthy young people who don’t believe health insurance is an important priority on their limited budgets. This increases the cost of insurance for everyone else and also creates real problems when young uninsured people do become sick or are injured in an accident. The recently introduced Republican alternative would allow young people to remain on their parents’ policies through age 25.

## **Conclusion: Don’t Forget About Medicare.**

Making sure that no American has to go without the medical care they need is an important matter. H.R. 3962 attempts to solve this problem through massive expenditures, huge new tax increases, and significantly increased federal government control of the private sector. As I have detailed, I believe there is a better way to achieve our common aims.

Beyond these concerns with the legislation is a far greater concern: it not only ignores, but worsens, the fiscal problems looming before Medicare. Any real effort to reform healthcare in America will need to shore up the system every senior in America relies on. H.R. 3962 is, in that way, a missed opportunity. Saving and strengthening Medicare will be a difficult project and one too easy to demagogue for one party to accomplish it alone. The ideological rigidity and partisanship seen in the current legislative

process and in H.R. 3962 itself do not bode well for Medicare's future. Congress must act in a bipartisan fashion to protect Medicare, and it must do so very soon.